

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

BUREAU OF CONSUMER FINANCIAL
PROTECTION,

Plaintiff,

v.

PROGREXION MARKETING, INC., et al.,

Defendants.

Case No. 2:19-cv-00298-BSJ

**DECLARATION OF COURTNEY L.
HAYDEN IN SUPPORT OF
DEFENDANTS' MOTION TO EXCLUDE
THE EXPERT REPORTS AND
TESTIMONY OF DR. SHANE
FREDERICK**

I, Courtney L. Hayden hereby declare and state as follows:

1. I am an attorney with the law firm of Goodwin Procter LLP, and have been admitted *pro hac vice* as counsel for Defendants in the above-captioned matter.

2. I submit this Declaration in support of Defendants Progrexion Marketing, Inc., PGX Holdings, Inc., Progrexion Teleservices, Inc., eFolks, LLC, Creditrepair.com, Inc., and John C. Heath, Attorney at Law, PC, d/b/a Lexington Law's (collectively, "Defendants") Motion to Exclude the Expert Reports and Testimony of Dr. Shane Frederick.

3. Attached as Exhibit 1 is a true and correct copy of the Expert Report of Dr. Shane Frederick, dated September 27, 2021, served by Plaintiff in this litigation. This document has been designated "Confidential" pursuant to the Modified Protective Order, ECF No. 72, and is thus filed under seal.

4. Attached as Exhibit 2 is a true and correct copy of the Expert Report of Dr. Thomas Maronick, dated October 25, 2021, served by Defendants in this litigation. This document has

been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and is thus filed under seal.

5. Attached as Exhibit 3 is a true and correct copy of the Corrected Expert Report of Arnold Barnett, PH.D., dated December 13, 2021, served by Defendants in this litigation. This document has been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and is thus filed under seal.

6. Attached as Exhibit 4 are true and correct excerpts of the November 30, 2021 deposition testimony of Dr. Shane Frederick. Certain pages of these excerpts have been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and are thus filed under seal.

7. Attached as Exhibit 5 is a true and correct copy of Robert M. Groves, *Nonresponse Rates and Nonresponse Bias in Household Surveys*, 72 PUB. OPINION Q. 646 (2006), as downloaded from <https://academic.oup.com/poq/article-abstract/70/5/646/4084443>.

8. Attached as Exhibit 6 is a true and correct copy of the Report of Dr. Shane Frederick Rebutting Expert Reports of John DelPonti, dated November 15, 2021, served by Plaintiff in this litigation. This document has been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and is thus filed under seal.

9. Attached as Exhibit 7 is a true and correct copy of the Rebuttal Report of Shane Frederick Concerning the Reports of Barnett, Maronick, DelPonti, and Stango, dated November 22, 2021, served by Plaintiff in this litigation. This document has been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and is thus filed under seal.

10. Attached as Exhibit 8 is a true and correct copy of Pew Research Center, *Assessing the Representativeness of Public Opinion Surveys* (May 15, 2012), as downloaded from <https://www.pewresearch.org/wp-content/uploads/sites/4/legacy-pdf/Assessing-the-Representativeness-of-Public-Opinion-Surveys.pdf>.

11. Attached as Exhibit 9 are true and correct excerpts of the December 15, 2021 deposition testimony of Dr. Arnold Barnett. Certain pages of these excerpts have been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and are thus filed under seal.

12. Attached as Exhibit 10 are true and correct excerpts of the February 24, 2021 Rule 30(b)(6) deposition testimony of Christina Rook and Robert Vincent Russo. Certain pages of these excerpts have been designated “Confidential” pursuant to the Modified Protective Order, ECF No. 72, and are thus filed under seal.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: April 26, 2022

/s/ Courtney L. Hayden
Courtney L. Hayden